

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 397.1 as follows:

6 (215 ILCS 5/397.1) (from Ch. 73, par. 1009.1)

7 Sec. 397.1. Certificate regarding payment of taxes and  
8 expenses on property sustaining loss.

9 (a) It shall be unlawful for any company transacting  
10 insurance business in this State to pay a claim of an insured  
11 property owner for loss by fire or explosion to a structure  
12 located in this State where the amount recoverable for loss  
13 to the structure under a policy exceeds \$25,000, until the  
14 insurance company receives the certificate required by this  
15 Section. A notice, to the State's Attorney of the county  
16 where the structure is located, of the insurers intent to pay  
17 a claim shall include the name of the property owner, the  
18 address of the property, its legal description, the permanent  
19 real estate index number that identifies the property for  
20 purposes of taxation, and the amount of the claim to be paid.

21 (b) For purposes of this Section, the following  
22 definitions are applicable:

23 (1) "Insured property owner" is a person named as  
24 an insured who is the owner, title-holder or mortgagee of  
25 a structure, the holder of an interest secured by the  
26 structure, the beneficiary of a land trust owning or  
27 holding title to a structure, the lessee of a structure  
28 with a contractual obligation for property taxes, or the  
29 assignee of any such person.

30 (2) "Amount recoverable" is the dollar amount  
31 payable under all insurance policies for loss to the

1 structure.

2 (3) "Proceeds" is the dollar amount payable for  
3 loss to the structure under an insurance policy.

4 (4) "Delinquent property taxes" are those property  
5 taxes on the property which are delinquent pursuant to  
6 Section 21-15, 21-20, or 21-25 of the Property Tax Code,  
7 including those delinquent taxes on property forfeited  
8 under Section 21-225 of the Property Tax Code, as of the  
9 date of loss.

10 In determining delinquent property taxes under this  
11 Section, the amount of property taxes for which a  
12 certificate of error has been issued pursuant to Section  
13 14-10 or 14-20 of the Property Tax Code shall not be  
14 considered delinquent.

15 (5) "Incurred demolition expense" is: (A) a- the  
16 cost of demolishing or removing a structure from property  
17 by or at the expense of a unit of local government if the  
18 demolition or removal occurs on a date preceding the  
19 later of (i) the acceptance by the insurance company of a  
20 Proof of Loss for an agreed amount of proceeds, or (ii)  
21 the date of receipt by the unit of local government of a  
22 request for execution of the certificate required by this  
23 Section; or (B) b- the amount estimated by the unit of  
24 local government when it receives a request to execute  
25 the certificate required by this Section; or (C) c- the  
26 amount ordered to be withheld by a court within 28 days  
27 after a unit of local government receives a request for  
28 execution of the certificate required by this Section.  
29 The unit of local government must be a party to such  
30 proceeding.

31 Incurred demolition expense shall be determined  
32 under subparagraph (A) a- whenever possible. In  
33 determining the incurred demolition expense under  
34 subparagraph (B) b-, the unit of local government shall

1 make its estimate and execute the certificate within 30  
 2 days after receiving a request for execution. ~~If the unit~~  
 3 ~~of local government shall fail within 30 days to execute~~  
 4 ~~the certificate, as required by subparagraph a., the~~  
 5 ~~company can proceed to make payment of the claim as if~~  
 6 ~~the certificate had been received showing no unpaid~~  
 7 ~~demolition costs.~~ The request for execution may be served  
 8 personally, and may be proven by a written receipt signed  
 9 by the local official as of the date the request was made  
 10 or by service on the local official by certified mail,  
 11 return receipt requested. A court order under  
 12 subparagraph (C) e. shall supersede an estimate under  
 13 subparagraph (B) b.

14 (6) "Property" is the lot on which the structure is  
 15 located.

16 (7) "Structure" is a building.

17 (8) "Claim" is the demand by an insured for payment  
 18 under an insurance policy or policies.

19 (9) "Proof of Loss" is the document on which an  
 20 insured formally presents his claim to an insurance  
 21 company.

22 (10) "Certificate" is the executed form prescribed  
 23 by the Director of Insurance.

24 (11) "Executed" means signed by the appropriate  
 25 official or unit of government.

26 (12) "Cost of securing property" means the expense  
 27 incurred by a unit of local government required to modify  
 28 the property to prevent unauthorized access to the  
 29 property and to prevent additional damage to the property  
 30 from exposure to the elements.

31 (c) For any claim to which this Section is applicable,  
 32 an insured property owner must submit one of the following to  
 33 the insurance company:

34 (1) a certificate that with respect to the property

1 there are:

2 (A) a- no delinquent property taxes, and

3 (B) b- no unpaid incurred demolition expenses,

4 and;

5 (C) no unpaid costs of securing the property;

6 (2) a certificate setting forth with respect to the  
7 property:

8 (A) a- the amount of unpaid delinquent  
9 property taxes,

10 (B) b- the amount of unpaid incurred  
11 demolition expense or unpaid costs of securing the  
12 property, and

13 (C) c- a direction by the owner of the an  
14 insured property owner to the insurance company to  
15 pay the unpaid delinquent property taxes and unpaid  
16 incurred demolition expenses or unpaid costs of  
17 securing the property.

18 (d) (1) Except as provided in paragraph (2) of this  
19 subsection (d), if a certificate is submitted pursuant to  
20 paragraph (2) of subsection (c) of this Section, the  
21 insurance company shall pay the unpaid delinquent  
22 property taxes and unpaid incurred demolition expense or  
23 unpaid costs of securing the property from the proceeds  
24 payable by issuing a draft or check payable to the  
25 appropriate tax collector or unit of local government.

26 Any proceeds remaining shall be paid to the insured  
27 property owner.

28 (2) In the event incurred demolition expense is  
29 determined by estimation under paragraph (5) of  
30 subsection (b) of this Section in cities of over  
31 2,000,000, the insurance company shall hold the amount  
32 estimated until an amended certificate executed by the  
33 appropriate local government official is submitted  
34 stating (i) that no demolition expense will be incurred

1 or (ii) the actual unpaid incurred demolition expense.  
 2 The insurance company shall then issue a draft or check  
 3 payable to the unit of local government for the actual  
 4 unpaid incurred demolition expense. Any proceeds  
 5 remaining shall be paid to the insured property owner.

6 In determining the amount of proceeds remaining  
 7 under this paragraph, the insured property owner shall  
 8 receive interest on the amount withheld from the date the  
 9 certificate is executed as provided in Section 2 of the  
 10 Interest Act.

11 (e) If, under this Section, the proceeds payable are  
 12 less than the amount of the unpaid delinquent property taxes  
 13 and unpaid incurred demolition expense or unpaid costs of  
 14 securing the property, unpaid property taxes shall be paid  
 15 first.

16 (f) If incurred demolition expense withheld pursuant to  
 17 subparagraph (B) subparagraphs-b- or (C) e- of paragraph 5 of  
 18 subsection (b) of this Section exceeds the ultimate cost of  
 19 demolition, the excess shall first be applied to unpaid  
 20 delinquent property taxes. Any amount of proceeds remaining  
 21 shall be paid to the insured property owner.

22 (g) Nothing in this Section shall be construed as:

23 (1) making an insurance company liable for any  
 24 amount in excess of the proceeds payable under its  
 25 insurance policy unless the insurance company shall have  
 26 made payment to the named insured without satisfying the  
 27 requirements of this Section;

28 (2) making a unit of local government or tax  
 29 collector an insured under an insurance policy; or

30 (3) creating an obligation for an insurance company  
 31 to pay unpaid delinquent property taxes, or unpaid  
 32 incurred demolition expense, or unpaid costs of securing  
 33 property other than as provided in subsection (d) of this  
 34 Section.

1           (h) An insurance company making a payment of proceeds  
2 under this Section for ~~unpaid delinquent taxes, or unpaid~~  
3 ~~incurred demolition expense, or unpaid costs of securing~~  
4 property shall be entitled to the full benefit of such  
5 payment, including subrogation rights and other rights of  
6 assignment.

7           (i) Unpaid property taxes, and unpaid incurred  
8 ~~demolition expense, and unpaid costs of securing property~~ for  
9 a claim for loss to a structure occurring after the issuance  
10 of a tax deed pursuant to Section 22-40 of the Property Tax  
11 Code shall not include any unpaid property tax, ~~or unpaid~~  
12 ~~demolition expense, and unpaid costs of securing property~~  
13 arising before the issuance of the tax deed.

14           (j) The county collector shall be designated as the  
15 local official who shall execute the certificate required by  
16 this Section regarding delinquent property taxes. The  
17 village clerk or city clerk in incorporated areas and the  
18 official in charge of the county building department in  
19 unincorporated areas shall be designated as the local  
20 official who shall execute the certificate required by this  
21 Section regarding demolition expenses and costs of securing  
22 property.

23           (k) A fee not to exceed \$5 may be charged by a unit of  
24 local government for execution of the certificate required by  
25 this Section.

26           (l) This Section shall retroactively apply to any policy  
27 issued or renewed on or after January 1, 1978 for which a  
28 claim subject to this Section remains unpaid as of the  
29 effective date of this amendatory Act of 1978.

30           (Source: P.A. 87-507; 88-667, eff. 9-16-94; 88-670, eff.  
31 12-2-94.)